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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,499	11/28/2000	Frank Van Heeswyk	213222.00018	5572
27160	7590	02/07/2006	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			CORRIELUS, JEAN B	
525 WEST MONROE STREET			ART UNIT	
CHICAGO, IL 60661-3693			PAPER NUMBER	
			2637	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/722,499

Applicant(s)

HEESWYK ET AL.

Examiner

Jean B. Corrielus

Art Unit

2637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15, 16 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15, 16 and 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 15,16, 20, 22, 23, 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasugai US Patent No. 5,390,366.

As per claim 15, Kasugai teaches a wireless communication system **fig. 1** for communication between a base station **20** and a plurality of subscriber stations **40** comprising a channel structure for the plurality of subscriber stations **40** to communicate with the base station **20**, the channel structure including: a plurality of bi-directional dedicated channels see **fig. 6 and col. 2, lines 36 and 41**, and a bi-directional user control channel see **fig. 6 and col. 2, line 35-36 and 40-41**, wherein a subscriber station, when activated within the communication system (i. e., when in communication) , is allocated a portion of the user control channel see **fig. 6** , but when a dedicated channel is established between the subscriber station and the base station, then the portion of the user control channel allocated to the subscriber station is de-allocated from the subscriber station until the dedicated channel is de-allocated from the

subscriber station, note col. 4, lines 43-45, where communication is switches from control channel to the traffic channel.

As per claim 16, Kasugai further teaches wherein each user control channel transmits data in frames divided into time slots see **fig. 4** and the portion of the user control channel allocated to a subscriber station includes a time slot in the frames transmitted over the user control channel see **fig. 4 and col. 4, lines 55-61**.

As per claim 20 power control information is inherently transmitted via the user control channel so as minimized interference between users.

As per claim 22 the channel structure further includes a transmit channel (broadcast packet data channel) and wherein acknowledgements 113 for receipt of a frame (packet) from the transmit channel (broadcast packet data channel) are transmitted from a receiving subscriber station 40 to the base station 20 via the user control channel. See **fig. 6 and col. 4, lines 42-46**.

As per claim 23, note that the limitation "and less than all of the plurality of subscriber stations is interpreted as "and does not include or excluding all of the plurality of subscriber stations". Kasugai teaches a dedicated slot, see for instance fig. 4 signal 302, assigned to "mobile station 22"(subscriber station) that does not include all the subscribers (mobile stations). For the additional limitations recited in claim 23, see claim 15.

As per claim 24, see claim 16.

As per claim 26, note that the assigned slot can be given any designation or definition, consistent with accepted meaning, however the function will be the same.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasugai.

As per claim 17, as applied to claim 15 above, Kasugai teaches every feature of the claimed invention but does not explicitly teach that firmware upgrades are transmitted via the user control channel. However, such limitation does not include any inventive step. It would have been obvious to one skill in the art to transmit firmware upgrades via the user control channel for better convenience.

As per claim 25, it would have been obvious to share use of the time slot by alternately employing it in successive frames in order to use efficiently the communication resources.

Response to Arguments

5. Applicant's arguments filed 12/16/05 have been fully considered but they are not persuasive. It is alleged that there is nothing to prevent more than one mobile station from transmitting at the same time and that in the system disclosed by Kasugai, all of the mobile stations share the use of the same portions of the control channel. However, it is noted, for instance, in Fig. 4, Kasugai teaches that each mobile is assigned a

different portion of the control channel, i.e. "time slot". As shown in fig. 4, mobile station 22 is assigned a portion of the control channel to communicate signal "302"; likewise, another mobile station communicates signal 304 in a time slot different than the one assigned to mobile station 22. In addition, note that a signal 306 is communicated in time slot different that time slot assigned to transmit signals 302 and 304. Hence, Kasugai teaches clearly that a dedicated portion of the user control channel is assigned to each station. It is further alleged that Kasugai does not teach dedicating "a slot" of the control channel to a particular subset of "subscriber **stations**" and less than all of the plurality of subscriber stations". Note that the claim language requires only "a slot" dedicated to "a subscriber **station**". Secondly, as indicated above, "and less than all of the plurality of subscriber stations" is interpreted to mean "does not include or excluding the other plurality of subscriber". Hence, as mentioned above, Kasugai does teach a dedicated slot, see for instance fig. 4 signal 302, assigned to "mobile station 22"(subscriber station) that does not include all the subscribers (mobile stations).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is 571-272-3020. The examiner can normally be reached on Maxi-Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jean B. Corrielus
Primary Examiner
Art Unit 2637

2-3-06